

Message

From: Richards, Michael [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=75D19ADB4A7E48E5BB0DA93913206339-RICHARDS, M]
Sent: 2/16/2022 1:36:49 AM
To: 'Vandergrift, Michael' [Michael.Vandergrift@pco-bcp.gc.ca]
Subject: Emergencies Act (Confidential IGA Communication)

Importance: High

Hi Michael,

Thank you again for facilitating the expedited call, and for Natalie's direct participation.

Just catching up. Doubtless like yours, the days are particularly demanding at the moment.

You are probably aware of the Manitoba RCMP statement earlier today; indicating its confidence that a peaceful resolution has been reached which will tomorrow restore full traffic at the Emerson port of entry.

<https://www.rcmp-grc.gc.ca/en/news/2022/statement-chief-superintendent-rob-hill-officer-charge-criminal-operations-the-manitoba-0>

There has been wide-spread media pick-up here already. But of course we will see what tomorrow brings.

Until full traffic flow returns, I would respectfully urge no premature federal public announcements. I broach this delicately, given the situational reports to which I am privy. Which suggest that the Emergencies Act invocation yesterday had nothing to do with ongoing local tactical operations, by the Manitoba RCMP. Indeed they advise that the EA announcement complicated those efforts, and actually delayed this outcome by at least one day.

More broadly, you and Natalie will have gleaned from my comments today that our Justice department is of the view that the legal thresholds set out in the EA have simply not been met. At least in relation to Manitoba. Either on the particularly specific legal definition of a "Public Order Emergency". Or as to the fulfillment of the intertwined 3 conditions set out in Section 3. Moreover, the mandatory section 25(1) consultation obligations have been effectively bypassed; another defect not justified by the dispensation criteria set out in s. 25 (2).

A policy desire to avail of one of the intended measures across the country – the powers to be afforded financial institutions without a court order – does not override the absence of the clear statutory thresholds and conditions required prior to a legal declaration under this extraordinary legislation.

I wanted to follow-up on today's meeting at the earliest opportunity. But perhaps we should also set up a bilateral call tomorrow afternoon, with our respective Justice DM colleagues, to discuss further.

Let me know. Thanks again Michael.

Michael Richards
Deputy Cabinet Secretary, Strategic Operations
Deputy Minister of Intergovernmental Affairs
Secretary, Public Sector Compensation Committee

